IDENTIFYING & RESOLVING DISPUTES BEFORE THE COURT

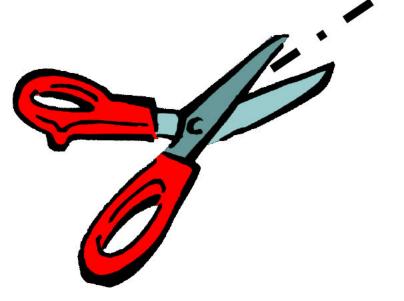


OFFICE OF THE CHIEF IMMIGRATION JUDGE ACIJ JACK H. WEIL JANUARY 29, 2018 So You admit it: You Planted the Corn used by the distillery to Make the Whiskey Sold to the Bar that served my client, causing him to have an accident while driving home drunk!



Identifying issues for resolution

Removability



Relief

Date: January 22, 2003

In removal proceedings under section 240 of the Immigration and Nationality Act In the Matter of: Respondent currently residing at: IN IGNS CUSTODY DEPARTMENT OF JUSTICE (Number, street, city state and ZIP code) EXECUTIVE OFFICE FOR IMMIGRATION REVIEW 1. You are an arriving alien. JAN 2 7 2003 2. You are an alien present in the United States who has not been admitted or paroled. 3. You have been admitted to the United States, but are deportable for the reasons stated below. FILED WITH SAN DIEGO, CA The Service alleges that you: 1) You are not a citizen or national of the United States; 2) You are a native of CHINA, PEOPLES REPUBLIC OF and a citizen of CHINA, PEOPLES REPUBLIC OF: 3) You arrived in the United States at or near Tecate, California, on or about January 22, 2003; 4) You were not then admitted or paroled after inspection by an Immigration Officer. On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law: .212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended; in that work are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture. Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv) YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: a place to be set (Complete Address of Immigration Court, Including Room Number, if any) On a date to be set a time to be set to show why y based on the charge(s) set forth above. (Signature and Title of Issuing Officer)

San Diego, California

(City and State)



| n | removal | procee | dings unde | r section 240 | of the Immi | gration and | Nationality Act |
|-----|--------------|--------|------------------|---------------|------------------------------|--|-----------------|
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(b) (6)

In the Matter of:

Respondent: (b) (6)

currently residing at:

(Number, street, city state and ZIP code)

DEPARTMENT OF JUSTICE EXECUTIVE OF THE PROPERTY OF THE PROPERT

1. You are an arriving alien.

🗵 2. You are an alien present in the United States who has not been admitted or paroled.

3. You have been admitted to the United States, but are deportable for the reasons stated below.

JAN 27 2003

FILED WITH IMMIGRATION COURT SAN DIEGO, CA

The Service alleges that you:

- 1) You are not a citizen or national of the United States;
- You are a native of CHINA, PEOPLES REPUBLIC OF and a citizen of CHINA, PEOPLES REPUBLIC OF;
- You arrived in the United States at or near Tecate, California, on or about January 22, 2003;
- 4) You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

.212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

a place to be set

(Complete Address of Immigration Court, Including Room Number, if any) a time to be set to show why you (A) (Z)

charge(s) set forth above.

On a date to be set

based on the based on the based on the (Signature and Title of Issuing Officer)

ASSESSED TO THE SECOND OF THE

San Diego, California

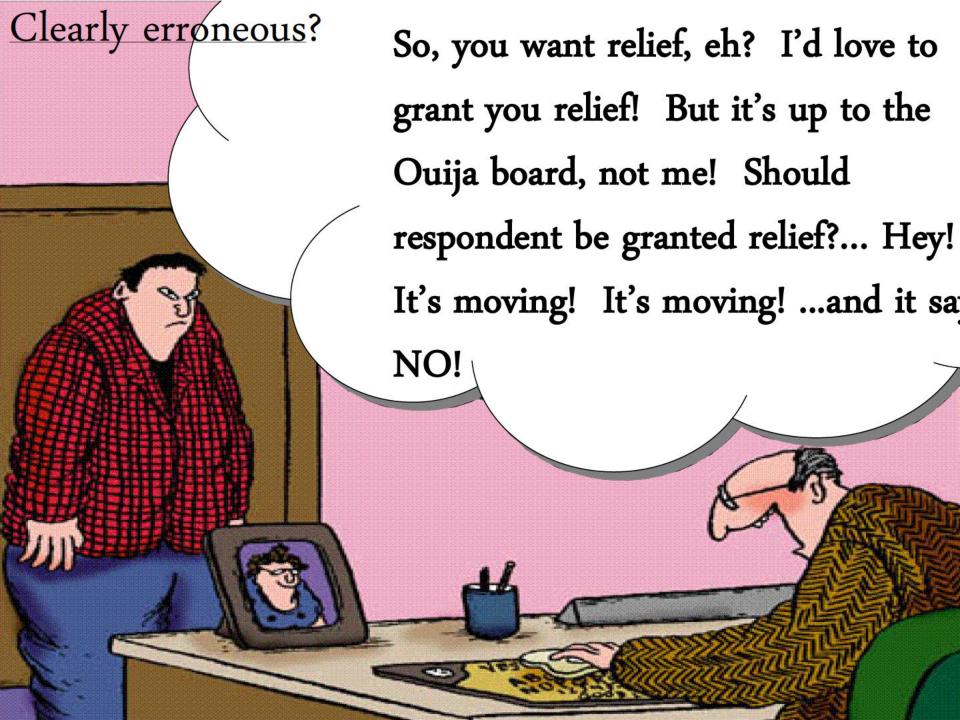
Date: January 22, 2003

See reverse for important information

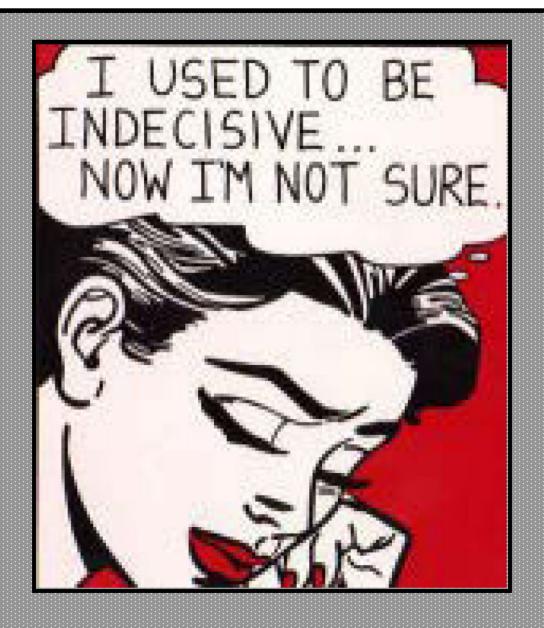
Factual disputes are resolved by a judge's "findings of fact."



Disputes of law are resolved by a judge's "conclusions of law."



Conclusions of Law: De Novo Review



Sample Removal Issues

- Aggravated felony
 - Drug trafficking
 - Sexual abuse of a child
 - Crime of violence, Murder, Rape
 - Theft offense with 1 year or more sentence
 - Burglary with 1 year or more sentence
- Controlled substances
- Crimes involving moral turpitude
- Firearms
- Present without inspection
- Alien smuggling
- Inadmissible at time of admission
- Fraud
- Overstay
- National security
- Health related grounds



The Issue

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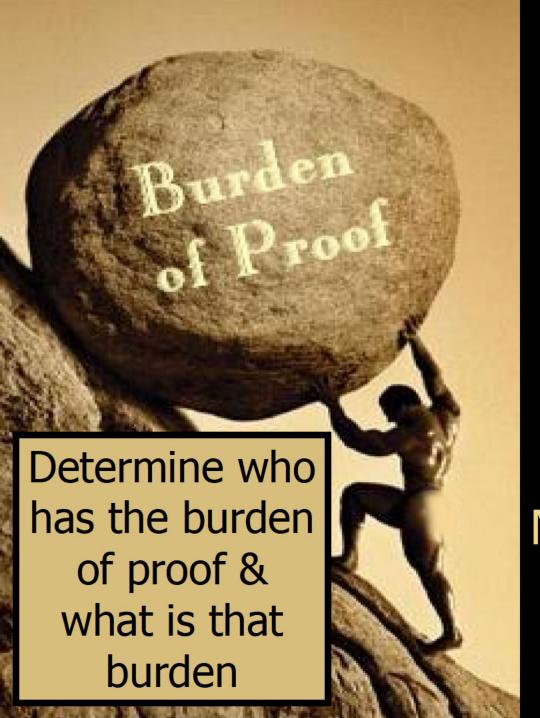
Issues of Law & Fact

Issue of Fact

Whether the respondent arrived in the United States on January 22, 2003?

Issue of Law

Whether the respondent was "inspected" when immigration officers waved in the car in which he entered the United States without speaking to the occupants or requesting documents?



Preponderance of the evidence

Clear & convincing

Clear probability

More likely than not

Beyond a doubt

Arriving Aliens

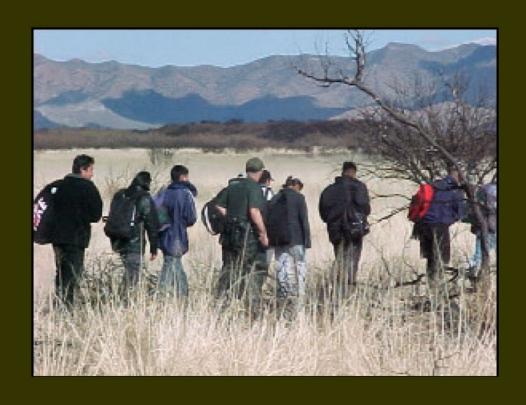


Section 101. Definitions (a) As used in this Act—(13)

(A) The terms "admission" and "admitted" mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.

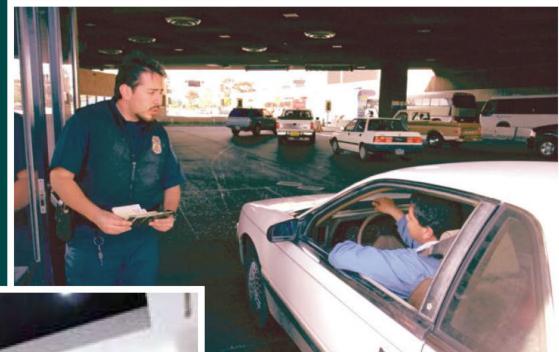


Aliens Present without Admission or Parole





Admitted Aliens





In removal proceedings under section 240 of the Immigration and Nationality Act

In the Matter of: Respondent currently residing at: IN IAMS CUSTODY DEPARTMENT OF JUSTICE (Number, street, city state and ZIP code) EXECUTIVE OFFICE FOR IMMIGRATION REVIEW 1. You are an arriving alien. JAN 2 7 2003 🗵 2. You are an alien present in the United States who has not been admitted or paroled. 3. You have been admitted to the United States, but are deportable for the reasons stated below. FILED WITH IMMIGRATION COURT SAN DIEGO, CA The Service alleges that you: 1) You are not a citizen or national of the United States; 2) You are a native of CHINA, PEOPLES REPUBLIC OF and a citizen of CHINA, PEOPLES REPUBLIC OF: 3) You arrived in the United States at or near Tecate, California, on or about January 22, 2003; 4) You were not then admitted or paroled after inspection by an Immigration Officer, On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law: .212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture. Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv) YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: · a place to be set (Complete Address of Immigration Court, Including Room Number, if any) On a date to be set at a time to be set to show why y based on the charge(s) set forth above.

Date: January 22, 2003 San Diego, California

See reverse for important information

(Signature and Title of Issuing Officer)

(City and State)

Three Classes of Aliens

| Class of Alien | Burden of Proof | Standard of Proof |
|----------------------------|--------------------|--------------------|
| Arriving Alien | Alien | Beyond a doubt |
| Present without Inspection | Alien | Clear & convincing |
| Admitted Alien | DHS | Clear & convincing |

Relief in Lieu of Removal

- Requirements for relief
 - Statutory or international convention
 - ♦ Discretionary (usually)
- Duty of judge to identify
- Burden of proof on respondent



Sample Relief Issues

- Asylum
- Withholding of Removal
- Convention Against Torture
- Cancellation of Removal for Lawful Permanent Residents
- Cancellation of Removal for Non-Lawful Permanent Residents
- Special Immigration Juvenile Status
- Adjustment of Status
- T, U, or V Visas
- VAWA Protections
- Registry
- NACARA
- Temporary Protected Status
- Refugee waiver
- Adjustment of Status
- Waivers of Inadmissibility
- Voluntary Departure



COP/I DD

COR/NLPR

PRE-VR

POST VR

ASYLUM

WITHHOLDING

209

CAT

212(c)

212(h)

ADJUSTMENT

REGISTRY

TPS

NACARA

Legal – NO

1X = **2018**

Hurt - NO

M(arried) – NO

K(ids) - NO

P(arents) – NO

F(iled) – NO

\$ - NO

Victim (T,U,V, SIJ) - NO

Cancellation or Removal for Non-Permanent Residents:

- physically present for not less than 10 years preceding application.
- person of good moral character during such period.
- has not been convicted of a listed offense
- establishes exceptional and extremely unusual hardship to a qualifying relative.
- relief warranted as a matter of discretion.

Discretionary determinations

- Based upon totality of the facts and circumstances
- Do the equities (favorable factors) outweigh the adverse (negative) factors?
- Respondent generally required to show by a preponderance of the evidence that he/she merits a favorable exercise of discretion
- Applies to motions as well

Examples of factors evidencing public interest & desirability or lack thereof

- Danger to the community
 - Propensity towards violence
 - Recidivist behavior (additional violations of laws considering nature, recency, & seriousness)
 - Genuine rehabilitation (including remorse and acceptance of responsibility)
- Family ties
- Employment history
- Property & business ties
- Hardship to respondent and family
- Value & service to the community (volunteer & military service)
- Length of residence (esp. inception at young age)
- Country conditions
- Paying taxes
- Criminal history
- Immigration history
- Child support
- Other evidence of good or bad character
- Nature & circumstances of grounds of removal



Burden of proving relief eligibility

Generally: preponderance of the evidence

 Withholding & CAT: clear probability; more likely than not

Possible Outcomes of a Removal Proceeding

- Terminate
- Continue
- Administratively close
- Grant relief
- Deny relief
- Order removed



Sample Motions & Procedural Issues

- Motion to continue
- Motion to withdraw
- Motion to terminate proceedings
- Motion to suppress
- Motion to reopen
- Motion to reconsider
- Motion to adminstratively close
- Motion to recalendar



Three Classes of Aliens

| Class of Aliens | Burden of Proof | Standard of Proof |
|----------------------------|-----------------|--------------------|
| Arriving Alien | Alien | Beyond a doubt |
| Present without Inspection | Alien | Clear & convincing |
| Admitted Alien | DHS | Clear & convincing |

Burdens of Proof in Removal Proceedings

By Jack H. Weil Assistant Chief Immigration Judge Falls Church, VA

There are three classes of aliens in removal proceedings. These are: 1) arriving aliens, 2) aliens present without admission or parole (sometimes referred to as EWIs, PWIs, or PWAs), and 3) admitted aliens.

DHS notes the class to which an alien belongs at the top of the Notice to Appear. It is important, however, to review their determination as they are often incorrect.

The determination as to which class an alien belongs is important because it affects the burden of proof in removal proceedings and also because it affects whether the immigration judge has jurisdiction to redetermine bond. An IJ has no jurisdiction to redetermine bond in the case of an arriving alien.

The decision as to which of the above classes an alien belongs is a conclusion of law. Therefore, I do not ask the alien to plead to that determination when pleading to the NTA. Instead, I draw the conclusion myself based upon the pleadings, evidence, and the charge of removal.

As mentioned, the determination as to which class an alien belongs affects the burden of proof in removal proceedings. See, INA 240(c)(2)&(3). Below is a description of the burden or standard of proof required and who bears the burden of proof in each of the three listed classes of cases:

Admitted Aliens

The Department of Homeland Security has the burden of establishing by clear and convincing evidence that the alien who has been admitted to the United States is removable. INA240(c)(3)(A). This means that DHS must prove by clear and convincing evidence both that the respondent is an alien and that the removal charge is true.

Admitted aliens are charged with removability under INA section 237.

Aliens Present Without Admission or Parole (or who arrive at a time or place in violation of law)

The Department of Homeland Security always has the burden to prove by clear and convincing evidence that the respondent is an "alien."

Admission of birth abroad gives rise to a rebuttable presumption that the respondent is an alien. Accordingly, if, in pleading to the NTA, the respondent

admits the factual allegation that he is a native (i.e., born in) a country that is not the United States or a territory or possession of the United States, it is presumed that the respondent is an alien. Respondent must be afforded an opportunity to rebut this presumption. If respondent fails to rebut the presumption, then alienage is established and DHS has met their burden of proving by clear and convincing evidence that the respondent is an alien.

For aliens present without admission or parole, once DHS proves that the respondent is an alien, the burden is on the respondent to prove by clear and convincing evidence that he/she is lawfully present in the United States pursuant to a prior admission. INA 240(c)(2)(B).

A simple way to state the burden of proof for aliens present without admission or parole is that the Department of Homeland Security must prove by clear and convincing evidence that the respondent is an alien and then the burden is on the respondent to prove by clear and convincing evidence that he/she is lawfully present in the United States pursuant to a prior admission.

The present without admission or parole class of aliens is charged with removability under INA section 212 and most frequently under INA section 212(a)(6)(A)(i).

Arriving Aliens

An arriving alien or applicant for admission bears the burden of proving that he/she is clearly and beyond doubt entitled to be admitted and is not inadmissible under INA section 212. INA 240(c)(2)(A).

It is clear that the arriving alien bears the burden of proving that he/she is clearly and beyond a doubt entitled to admission. It is undisputed that undocumented aliens and non-immigrant aliens seeking admission are arriving aliens and therefore must prove clearly and beyond a doubt that they are entitled to admission.

The issue becomes more complicated, however, when the respondent is an alien lawfully admitted for permanent residence. This is because INA 101(a)(13)(C) states that an alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking admission into the United States for the purposes of the immigration laws..." Accordingly, a lawful permanent resident who is coming to a port of entry and requesting admission is generally not regarded as seeking admission and therefore, subject to the caveat below, is not subject to the grounds of inadmissibility contained in INA section 212.

However, the law states that certain lawful permanent residents listed in INA 101(a)(13)(C)(i)-(vi) are regarded as seeking admission and therefore are subject to the grounds of inadmissibility under INA 212. Examples of lawful permanent

residents who are regarded as seeking admission and therefore regarded as "arriving aliens" subject to the grounds of inadmissibility under INA 212 include aliens who have abandoned or relinquished their lawful permanent resident status, aliens absent from the United States for a continuous period in excess of 180 days, aliens who have engaged in illegal activity after having departed the United States, certain aliens who have committed an offense identified in INA 212(a)(2) unless they have been granted relief under 212(h) or 240A(a), or aliens attempting to enter at a time or place in violation of law or who have not been admitted to the United States after inspection. This is a summary of INA 101(a)(13)(C)(i)-(vi) for illustrative purposes. A more careful reading of INA 101(a)(13) is in order.

Accordingly, at the risk of over-simplification, the general rule is that a lawful permanent resident is not regarded as seeking admission to the United States nor is he/she subject to the grounds of inadmissibility in INA 212 unless he/she falls into one of the classes of aliens described in INA 101(a)(13)(C)(i)-(vi). If the lawful permanent resident is described in INA 101(a)(13)(C)(i)-(vi), then he/she is an arriving alien and subject to the same grounds of inadmissibility under INA 212(a) as all other aliens such as non-immigrants and undocumented applicants for admission.

This returns us to the question of who bears the burden of proving that an alien lawfully admitted for permanent residence is an "arriving alien" and therefore subject to the grounds of inadmissibility under INA 212?

I take the position that if the evidence clearly demonstrates that the respondent is a lawful permanent resident, the burden is on DHS to show clearly and convincingly that the respondent falls within one of the categories of aliens listed in 101(a)(13)(C)(i)-(vi). For example, I require DHS to come forward with proof that the alien "has engaged in illegal activity" or has "committed an offense identified in section 212(a)(2)" and then allow the respondent to respond to it. I do not believe that an alien should be required to prove a negative (e.g., that he/she has not engaged in unlawful activity after having departed the United States) without DHS providing some evidence as to what unlawful act the alien is believed to have committed following his/her departure. I believe that the "an alien lawfully admitted for permanent residence shall not be regarded as seeking an admission" language of the statute and due process supports this position.

To summarize the burden of proof for arriving aliens, if: 1) the respondent is not lawfully admitted for permanent residence or 2) the respondent is lawfully admitted for permanent residence but DHS establishes by clear and convincing evidence that the respondent falls within one of the categories listed in 101(a)(13)(C)(i)-(vi), then the respondent is an arriving alien and must prove clearly and beyond a doubt that he/she is entitled to admission. If the respondent is a lawful permanent resident and DHS fails to prove by clear and convincing evidence that the respondent falls within one of the categories listed in

101(a)(13)(i)-(vi), then I would conclude that the respondent is not an arriving alien, not sustain the INA 212 charge and terminate the proceeding.

Please be advised the above summary represents my legal conclusions and is subject to interpretation.

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|--|--|----------------------------------|----------------------|
| Cancellation for Non-Permanent Residents | Documents | Testimony | Other |
| 10 years presence | Ex 1 School Record Ex 3 Utility Bill Ex 5 Pay Stub | Neighbor | |
| Good moral | Ex 6 Certificate Ex 8 Friend Letter | Sister | Proffer re: Brothers |
| No disqualifying conviction | Ex 9 State Clearance | | Stipulated |
| Exceptional & extremely unusual hardship | Ex 10 Marriage cert. Ex 11 D's birth cert. Ex 12 Medical doc. | Dr. Smith Teacher Daughter | |
| Discretion | Ex 13 Church Letter Ex 14 Charity Letter | Respondent | |

| | ms of relief that the Court may | use or see |
|----------------------------|---------------------------------|-------------------------------------|
| Туре | Form Used | Jurisdiction |
| 10 year bar | 601A | CIS only |
| 212c waiver | I-191 | Court |
| 237a 1h waiver | I-191 | Court |
| Adjustment of Status | 1-485 | Court or CIS |
| Alien Relative | I-130 | CIS only |
| Alien Worker | I-140 | CIS only |
| Asylum, withholding, CAT | I-589 | Court or asylum office |
| Cancellation of removal | 42B | Court |
| Citizenship | N-600 | Court/State Department/CIS |
| Motion to Suppress | Motion Format | Court |
| Motion to terminate | Motion Format | Court |
| NACARA | I-881 | Court or CIS |
| Naturalization | N-400 | CIS |
| Parole in place | Unknown | CIS |
| Physical Presence Waiver | I-601A | CIS |
| Removal of condition | I-751 | CIS first then Court de novo review |
| Special Immigrant Juvenile | I-360 with predicate order | CIS only |
| T visa | I-914 | CIS only |
| TPS | I-821 | Court or CIS |
| U visa | I-918 | CIS only |
| VAWA | 42B | Court |
| Waiver | I-601 | Court or CIS |
| Work permit | 1-765 | CIS only |

| Form of Relief | Requirements | Bars | Things to Note |
|---|---|--|---|
| Asylum INA § 208 | Must file within <u>1 year</u> of arrival in US Past persecution or well-founded fear of future persecution On account of a protected ground Persecution by government or persons/organizations government unable or unwilling to control Discretionary | Persecutor of others Convicted of particularly serious crime Serious reasons to believe committed serious nonpolitical crime outside US Danger to US security Terrorism-related grounds Firm resettlement in another country prior to arrival | Grant includes derivative applicants Use Form I-589 (no filing fee) |
| Withholding of Removal INA § 241(b)(3) | Clear probability/more likely than not will suffer persecution Because of a protected ground Persecution by government or persons/organizations government unable or unwilling to control Mandatory Relief | Persecutor of others Convicted of particularly serious crime Serious reasons to believe committed serious nonpolitical crime outside US Danger to US security | No derivative applicant benefits Must enter removal order to grant Use Form I-589 (no filing fee) |
| Convention Against Torture (withholding) 8 USC § 1231 8 CFR §§ 1208.16-18 | More likely than not would be tortured if removed to proposed country Torture must be at instigation or with consent/acquiescence of public official Mandatory Relief | - Withholding of Removal bars apply | - Use Form I-589 (no filing fee) |
| CAT Deferral 8 CFR § 1208.17 | Applies when respondent is subject to mandatory bar to withholding of removal but is otherwise eligible for CAT Mandatory Relief | - None | - IJ must provide CAT deferral advisals found at 8 CFR § 1208.17(b) - Use Form I-589 (no filing fee) |

^{*}Fee may be waived by IJ upon showing of inability to pay under 8 CFR § 1003.24(d). Note: Burden of proof is under a preponderance of the evidence unless otherwise stated

| Form of Relief | Requirements | Bars | Things to Note |
|---|---|--|---|
| LPR Cancellation of Removal (42A) INA § 240A(a) | Lawfully admitted for permanent residence for <u>5 years</u> Continuous residence in US for <u>7 years</u> after admission in any status Discretionary | Aggravated felony Alien crewmen or certain Jvisa recipients 212(a)(3) / 237(a)(4) security and related grounds Persecutor of others Previously granted cancellation, suspension, or 212(c) | Stop-time rule applies to residence Use Form EOIR-42A (\$100 filing fee)* |
| Non-LPR Cancellation of Removal INA § 240A(b)(1) | Continuous physical presence 10 years immediately preceding application GMC 10 years preceding IJ decision Removal would result in exceptional and extremely unusual hardship to USC or LPR spouse, parent, or child Discretionary | Conviction under 212(a)(2), 237(a)(2), 237(a)(3) (crime and fraud grounds) 42A bars apply | Stop-time rule applies to physical presence Use Form EOIR-42B (\$100 filing fee)* |
| VAWA Cancellation INA § 240A(b)(2) | Battered or subjected to extreme cruelty by USC or LPR spouse or parent; or, parent of child who has been battered or subjected to extreme cruelty by their USC or LPR parent Continuous physical presence and GMC for 3 years preceding application Removal would result in extreme hardship to alien, alien's child, or alien's parent Discretionary | Aggravated felony 212(a)(2), (3); 237(a)(1)(G), (2)-(4) (crime, security, and fraud grounds) | IJ may waive some 101(f) bars to GMC if act or conviction connected to battery or extreme cruelty Use Form EOIR-42B (\$100 filing fee)* |
| NACARA Cancellation NACARA § 203 | Certain Guatemalans, Salvadorans, and Eastern Europeans who entered the US before 1991 may be eligible to apply for Special Rule Cancellation of Removal if they meet differing asylum filing and/or benefit registration deadlines | - Aggravated felony | Applicants are subject to a heightened special rule cancellation standard if certain criminal grounds apply Use Form I-881 (\$165 filing fee)* |

^{*}Fee may be waived by IJ upon showing of inability to pay under 8 CFR § 1003.24(d). Note: Burden of proof is under a preponderance of the evidence unless otherwise stated

| Form of Relief | Requirements | Bars | Things to Note |
|---|--|--|--|
| Adjustment of Status | Inspected and admitted, paroled, or approved VAWA self-petition Makes application for adjustment Eligible to receive an immigrant visa and admissible for permanent residence Immigrant visa immediately available at time of filing Discretionary | - Any ground of inadmissibility | Waivers available for some grounds of inadmissibility Certain applicants who entered without inspection, overstayed, or worked without authorization may be eligible for AOS through INA § 245(i) if they are the beneficiary of a labor cert or visa petition filed on or before April 30, 2001. (\$1,000 fee may apply, may not be waived) Use Form I-485 (\$1,140 filing fee)* |
| Pre-Conclusion Voluntary Departure INA § 240B(a) | Request pre-conclusion VD prior to or at the master calendar hearing at which the case is initially set for a merits hearing Request no other relief Concede removability Waive appeal Discretionary | Aggravated felony Deportable under 237(a)(4) (security and related) Arriving aliens not eligible | IJ may grant up to 120 days departure period GMC and financial means to depart not required If no travel document immediately available, IJ may still grant 120 day VD on condition that applicant secures travel docs and presents to DHS within 60 days Terminates automatically if appeal filed; may be reinstated by Board IJ must provide relevant VD advisals No Form |

^{*}Fee may be waived by IJ upon showing of inability to pay under 8 CFR § 1003.24(d). Note: Burden of proof is under a preponderance of the evidence unless otherwise stated

| Form of Relief | Requirements | Bars | Things to Note |
|--|---|---------------------------------|--|
| Post-Conclusion Voluntary Departure INA § 240B(b) | Physically present <u>1 year</u> prior to service of NTA GMC <u>5 years</u> preceding VD application Show ability and intent to leave at own expense Must post bond (minimum \$500) as designated by IJ Discretionary | - Aggravated felony, terrorists | IJ may grant up to 60 days departure period Terminates automatically if appeal filed; may be reinstated by Board IJ must provide relevant VD advisals No Form |

^{*}Fee may be waived by IJ upon showing of inability to pay under 8 CFR § 1003.24(d). Note: Burden of proof is under a preponderance of the evidence unless otherwise stated

Conducting a Relief Inquiry:

1X -

LEGAL -

HURT -

M -

K -

P -

FILED -

VICTIM -

S -

- 1. When was your first time in the United States?
- 2. Have you ever had papers or permission to be in the United States?
- 3. Has anyone or would anyone harm you if you were to go back to your country?
- 4. Do you have a wife, child, or parent with papers or permission to be in the United States?
- 5. Has anyone filed to get you papers or permission to be in the United States?
- 6. Have you been the victim of domestic violence, human trafficking, or crime?
- 7. Do you have access to resources to depart the United States?

COR/LPR

COR/NLPR

PRE-VR

POST-VR

ASYLUM

WITHHOLDING

209

CAT

212(c)

212(h)

ADJUSTMENT

REGISTRY

TPS

NACARA

T, U, V

Forms of relief that the Court may use or see

| Туре | Form Used | Jurisdiction |
|----------------------------|----------------------------|-------------------------------------|
| 10 year bar | 601A | CIS only |
| 212c waiver | I-191 | Court |
| 237a 1h waiver | I-191 | Court |
| Adjustment of Status | I-485 | Court or CIS |
| Alien Relative | I-130 | CIS only |
| Alien Worker | I-140 | CIS only |
| Asylum, withholding, CAT | I-589 | Court or asylum office |
| Cancellation of removal | 42B | Court |
| Citizenship | N-600 | Court/State Department/CIS |
| Motion to Suppress | Motion Format | Court |
| Motion to terminate | Motion Format | Court |
| NACARA | I-881 | Court or CIS |
| Naturalization | N-400 | CIS |
| Parole in place | Unknown | CIS |
| Physical Presence Waiver | I-601A | CIS |
| Removal of condition | I-751 | CIS first then Court de novo review |
| Special Immigrant Juvenile | I-360 with predicate order | CIS only |
| T visa | I-914 | CIS only |
| TPS | I-821 | Court or CIS |
| U visa | I-918 | CIS only |
| VAWA | 42B | Court |
| Waiver | I-601 | Court or CIS |
| Work permit | I-765 | CIS only |